

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

KEITH RAMON ALLEN

Movant,

v.

CIVIL ACTION NO. 5:12-cv-00189
(Criminal No. 5:03-cr-00032-2)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Movant Keith Ramon Allen, acting *pro se*, filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 [ECF 263]. By Standing Order entered September 2, 2010, and filed in this case on January 26, 2012, this case was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (“PF&R”). On September 29, 2014, Magistrate Judge VanDervort issued a PF&R recommending that the Court deny Movant’s motion (ECF 285).

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the Magistrate Judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of de novo review and Movant’s right to appeal this Court’s Order. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort’s PF&R were due on October 17, 2014. To date, no objections have been filed.


Accordingly, the Court **ADOPTS** the PF&R (ECF 285), **GRANTS** Movant's motion to withdraw [ECF 284] his Section 2255 motion, **DISMISSES** Movant's § 2255 motion [ECF 263], **DISMISSES** this case, and **DIRECTS** the Clerk to remove this action from the Court's docket.

The Court has also considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." *Id.* at § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this Court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336–38 (2003); *Slack v. McDaniel*, 529 U.S. 437, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683–83 (4th Cir. 2001). The Court concludes that the governing standard is not satisfied in this instance. Pursuant to Rule 11(a), Movant may not appeal the Court's denial of a certificate of appealability, but he may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22. Accordingly, the Court **DENIES** a certificate of appealability.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: November 6, 2014



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE